

CNR NO. MHSO060001922025



R.C.S. No. 15/2025

Madhukar Jagtap

V/s.

State of Maharashtra & Ors.

**Order below Exh. 28**  
**(Delivered on 18<sup>th</sup> July 2025)**

This application is filed by Dattatraya Nana Mali under Order 1 Rule 10 of the CPC.

02. It is stated by the applicant in the application that his property bearing Gut No. 2365/2 is adjacent to the suit property therefore if any order is passed regarding the suit property then he will suffer great irreparable loss.

03. The suit property mentioned in plaint having survey No.963 is owned and possessed by the applicant trust. Plaintiff is not having any right and concern with that entire property. Despite of that by making false pleadings suit is filed by plaintiff. This applicant has recently got knowledge about that. As such in order to establish the rights he is necessary party to the suit. Therefore this application is filed to add this applicant in the array of defendants. Further it is stated that Spl.C.S.No.288/2022 is pending in this court with respect of the ancestral property of applicant situated at Mangalwedha. The survey number mentioned by the plaintiff is involved in said suit. If at all this applicant is added as defendant in the suit then there is no loss to the plaintiff. On the contrary if this applicant is not added as defendant

then he will sustain great and irreparable loss. Further, there may be multiplicity of litigation hence he prayed to allow the application.

04. At Exh.54 plaintiff has filed say to the application filed by the applicant to add him as defendant. Application is opposed on the grounds that, it is not legal. This plaintiff is not party to Spl.C.S.No.288/2022. This applicant is not having any concern with the suit property. Plaintiff has not claimed any relief against this applicant. Plaintiff has not accrued any cause of action against this applicant. Plaintiff has claimed relief against defendant Nos.1 to 4 on the basis of notice issued by defendant No.4. In such a circumstances this applicant is not necessary party to present suit. No any reason is there to add him as defendant. As such, prayed to reject the application with costs.

05. Heard learned advocate Shri. S. S. Joshi for applicant. He has submitted that this application is filed on behalf of Dattatraya Nana Mali. Land of this applicant is adjacent to the Gat No. 2366, 2367 and 2368. If any order is passed then the applicant will suffer great irreparable loss, therefore, he is necessary party for the suit. As such he prayed for allow the application.

06. Heard learned advocate Shri. Badodkar. He has submitted that the scope of this suit is very limited. Plaintiff has challenged notice issued by defendant No.4 and therefore the suit is filed against defendant Nos. 1 to 4. Plaintiff has purchased property in the year 1970. Since last 54 years this applicant is not having any concern with

this suit property. If extract of 7/12 is perused name of this applicant is entered to survey No.963/3. No prima facie evidence is necessary to add him as party. Nothing is on record to show that this applicant is having any concern with the suit property. Plaintiff is not party to Spl.C.S.No.288/2022. This itself is sufficient to show that the property which is owned and possessed by this applicant is different then the suit property. At the last he prayed to reject the application.

07. After hearing both sides at length. Perused para No.2 Page No.7 of the application. It is mentioned in the para that land Gat No.2365/2 is adjacent to the land Gat Nos. 2366, 2367 and 2368. It is not mentioned in this para or in whole application that towards which direction the land of applicant is situated or adjacent to the other Gat Numbers. As to how the result of this suit will affected on his right. How he is necessary party to the suit. Mere vague contentions are mentioned at length and repeatedly mentioned in facts which are not relevant to the suit. Considering documents produced on record by this applicant and submission made by learned advocate Shri. Joshi this applicant has failed to show that he is having any legal right in the suit property. Further, he has failed to show that how this applicant is necessary and proper party to the suit, without adding him how the suit is not maintainable. In order to add a person as third party it is his duty to show that without adding him the suit can not be decided. In this suit the plaintiff is only claiming that he is owner and possessor of land Gat No.2368 admeasuring 2H.62R. out of that the 3 Kiosks towards the Northern side of said land. Defendant No.4 has issued notice to plaintiff to remove those Kiosks as that is encroachment and therefore

plaintiff has sought declaration that he is owner of the suit property. Further he is claiming possession over the suit property therefore he has sought perpetual injunction against those defendants. Considering the above entire nature of the suit and facts that this applicant has failed to establish that he is having any right in the suit property, therefore, he is necessary party to the suit. As such the application being devoid of merits is liable to be rejected. Therefore, I pass following order.

**ORDER**

Application is rejected.

**Date :- 18/07/2025.**  
**Place :- Pandharpur.**

**(M. B. Kulkarni)**  
**2<sup>nd</sup> Jt. Civil Judge, Senior Division**  
**Pandharpur**

**CERTIFICATE**

I, affirm that the contents of this PDF file Order/Judgment are same word to word, as per the original order/Judgment.

Name of Employee	:	Shirsikar V. G., Stenographer
Court	:	Jt. C.J.S.D. Pandharpur
Date	:	18.07.2025
Judgment/order signed by the Presiding Officer on	:	18.07.2025
Judgment/Order uploaded on	:	18.07.2025

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